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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and the
Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

NATHAN GREENBERG REVOCABLE TRUST
DTD 6/7/1973; ESTATE OF NATHAN
GREENBERG; BARBARA E. GREENBERG,
individually and in her capacities as Personal
Representative of the Estate of Nathan Greenberg
and as Successor Trustee of the Nathan Greenberg

Adv. Pro. No. 10-04821 (SMB)

Revocable Trust Dated 6/7/1973,

Defendants.

STIPULATION REGARDING DISMISSAL OF CERTAIN CLAIMS

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and Nathan Greenberg Revocable Trust DTD 6/7/1973, Estate of Nathan Greenberg, and Barbara Greenberg, in her capacities as Personal Representative of the Estate of Nathan Greenberg and as Successor Trustee of the Nathan Greenberg Revocable Trust Dated 6/7/1973 (“Defendants”) (Trustee and Defendants, collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 1, 2010, the Trustee filed the Complaint against Defendants.
2. Numerous defendants in other related adversary proceedings, but not Defendants, filed motions to dismiss (the “Motions to Dismiss”) complaints or amended complaints filed against them by the Trustee.
3. On June 2, 2015, the Bankruptcy Court granted in part and denied in part the Motions to Dismiss for reasons set forth in its Memorandum Decision Regarding Omnibus Motions to Dismiss (the “Decision”) [ECF No. 10089 in Adv. Pro. No. 08-01789 (SMB)].
4. On June 22, 2015, the Supreme Court of the United States denied *certiorari* of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to this adversary proceeding.
5. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, as

incorporated by Rule 7041 of the Federal Rules of Bankruptcy Procedure, the Trustee's claims in Counts Two through Seven of the Complaint are hereby dismissed.

6. Counts Two, Three, Four, Five, and Six are dismissed with prejudice against all Defendants.

7. Count Seven for Recovery of Subsequent Transfers is dismissed as to the Estate of Nathan Greenberg and Barbara Greenberg in her capacity as Personal Representative of the Estate of Nathan Greenberg without prejudice to (i) the Trustee's right to seek to amend in accordance with Rule 15(a)(2) of the Federal Rules of Civil Procedure, made applicable hereto by Federal Rule of Bankruptcy Procedure 7015, and/or (ii) the Trustee's rights under Section 550(f) of the Bankruptcy Code.

8. Except as set forth herein, this Stipulation has no effect on the Trustee's remaining counts in the Complaint.

9. Except as expressly set forth herein, the parties to this Stipulation reserve all rights and defenses they may have.

10. The Clerk of the Court is hereby directed to amend the caption to remove certain parties, as reflected on Exhibit A to this Stipulation.

11. Defendants shall file their answer to the Complaint on or before fourteen days following the filing of this Stipulation. The Adversary Proceeding will move forward thereafter on a schedule to be established by further order of the Court after consultation among the parties in accordance with the applicable rules of procedure.

12. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall

be deemed an original.

Dated: September 22, 2015

Of Counsel:

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Attorneys for Defendants

Exhibit A

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her capacity as Successor Trustee of the Nathan
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